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AN ACT

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1855

or

TO ESTABLISH AND MAINTAIN

S. S. Whitehead

A SYSTEM OF FREE SCHOOLS,

PASSED BY THE

LEGISLATURE OF THE STATE OF ILLINOIS, *in 1855,*

at the 17th

FEBRUARY 15, 1855.

SPRINGFIELD:

LANPHER & WALKER, PRINTERS.

1855.

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22. 11. 1855

PLATE: 22

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AN ACT

TO ESTABLISH AND MAINTAIN A SYSTEM OF FREE SCHOOLS.

STATE SUPERINTENDENT OF PUBLIC IN-
STRUCTION—*His Election and Duties.*

In force Feb. 15,
1855.

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly, That at the election to be held on Tuesday after the first Monday of November, A. D. 1856, and biennially thereafter, there shall be elected, by the legal voters of this state, a state superintendent of public instruction, who shall hold his office for two years, and until his successor is duly elected and qualified.*

Election of su-
perintendent.

§ 2. Before entering upon his duties he shall take and subscribe the usual oath of office, and shall also execute a bond in the penalty of twenty-five thousand dollars, payable to the state of Illinois, with sureties to be approved by the governor, conditioned for the prompt discharge of his duties as superintendent of public instruction, and for the faithful application and disposition, according to law, of all school moneys that may come into his hands by virtue of his office; said bond and oath shall be deposited with the secretary of state, and an action may be maintained thereon by the state, at any time, for a breach of the conditions thereof.

To give bond.

§ 3. It shall be his duty to keep an office at the seat of government of the state, and to file all papers, reports and public documents transmitted to him by the school officers of the several counties, each year separately, and to keep and preserve all other public documents, books and papers relative to schools coming into his hands as state superintendent, and to hold the same in readiness to be exhibited to the governor, or to any committee of either house of the general assembly, and shall keep a fair record of all matters pertaining to the business of his office.

Keep office at the
seat of govern-
ment.

§ 4. He shall, without delay, pay over all sums of money which may come into his hands by virtue of his office,

Pay over moneys.

to the officer or persons entitled to receive the same, in such manner as may be prescribed by law.

Advise
teachers.

with

§ 5. He shall counsel and advise, in such manner as he may deem most advisable, with experienced and practical school teachers, as to the best manner of conducting common schools, and as to the most approved text books, maps, charts, apparatus, &c., to be used in common schools.

Supervision of
common schools

§ 6. Said superintendent shall have the supervision of all the common and public schools in the state, and shall be the general adviser and assistant of school commissioners in the state; he shall, from time to time, as he shall deem for the interest of schools, address circular letters to said commissioners, giving advice as to the best manner of conducting schools, constructing school houses, furnishing the same, and procuring competent teachers; he shall recommend the most approved text books, maps, charts and apparatus, and uniformity in the use of the same, as well as in the manner of conducting schools throughout the state.

To visit counties.

§ 7. He shall visit every county in the state at least once during his term of office, confer freely with the school officers as to the manner of conducting schools, and shall deliver a public lecture to the teachers and people of each county on the subject of education, if deemed practicable, and perform generally such duties as may tend to advance the interest of education.

Report to gov-
ernor.

§ 8. Said state superintendent shall, before the fifteenth day of December of every year preceeding that in which shall be holden a regular session of the general assembly, report to the governor the condition of schools in the several counties of the state, the whole number of schools which have been taught in each county in each of the preceeding years, commencing on the first Monday of October; what part of said number have been taught by males exclusively; what part by females exclusively; what part of said whole number have been taught by males and females at the same time; and what part by males and females at different periods; the number of scholars in attendance at said schools; the number of white persons in each county under twenty-one years of age; the amount of township and county fund; the amount of the interest of the state or common school fund, and of the interest of the township and of the county fund annually paid out; the amount raised by an *ad valorem* tax; the whole amount annually expended for schools; the number of school houses, their kind and condition; the number of townships and parts of townships in each county; the number and description of books and apparatus purchased for the use of schools and school libraries under the provisions of this act, the prices paid for the same, and total amount purchased, and what

quantity and how distributed; and the number and condition of the libraries, together with such other information and suggestions as he may deem important in relation to the school laws, schools, and the means of promoting education throughout the state; which report shall be laid before the general assembly at each regular session.

§ 9. The said state superintendent of public instruction shall make such rules and regulations as he may think necessary and expedient to carry into full effect the provisions of this act, and of all the laws which now are or may hereafter be in force for establishing and maintaining schools in this state; and the said superintendent shall have power, and it shall be his duty, to explain and interpret and determine to all school commissioners, directors, township and other school officers, the true intent and meaning of this act, and their several duties enjoined thereby, and his decision shall be final, unless otherwise directed by the legislature, or reversed by a court of competent jurisdiction.

Make rules and regulations.

To interpret the meaning of this act.

§ 11. The said state superintendent shall have power to direct and cause the school commissioner of any county, directors or board of trustees or township treasurer of any township, or other school officer, to withhold from any officer, or township, or teacher, any part of the common school, or township, or other school fund, until such officer, township, or teacher, shall have complied with all the provisions of this act relating to his, her or their duties, and such rules and regulations as the state superintendent may prescribe, not inconsistent with this act; and the state superintendent may forbid the payment of any part of the common school, township, county, or other school fund, to any district in which the school or schools have not been kept according to law, or in which no school has been kept for six months during the year next preceding the demand for payment.

To cause school commissioners to withhold funds.

§ 12. And the said state superintendent shall receive annually the sum of fifteen hundred dollars, to be paid quarterly, as a salary for the services required under the provisions of this act, or any other law that may be passed, and also for all necessary contingent expenses, for books, postage and stationery pertaining to his office, to be audited and paid by the state, as the salaries and contingent expenses of other officers are paid.

Salary of superintendent.

SCHOOL COMMISSIONERS—*Their Election and Duties.*

§ 13. On the Tuesday next after the first Monday in November next, and on the Tuesday next after the first Monday in November, every two years thereafter, there

Election of school commissioners.

Commissioner to
give bond.

shall be elected, by the qualified voters of each and every county in this state, a school commissioner, who shall execute the duties herein required. He shall, before entering upon his duties, take an oath for the faithful discharge of his duties. He shall, before entering upon his duties, execute a bond, payable to the state of Illinois, with two or more responsible freeholders as security, to be approved by the county court, in a penalty of not less than twelve thousand dollars, to be increased at the discretion of said court, in proportion to his responsibilities, conditioned that he will faithfully perform all the duties of school commissioner of said county, according to the laws which are or may be in force; by which bond the obligors shall be bound jointly and severally, and upon which an action or actions may be maintained by the board of trustees of the proper township, for the use of any township or fund injured by any breach thereof; and joint action may be had for two or more funds.

§ 14. The bond required in the foregoing section shall be in the following form, viz :

State of Illinois, } ss.
 County. }

Form of bond.

Know all men by these presents, that we, A B, C D, and E F, are held and firmly bound, jointly and severally, unto the people of the state of Illinois, in the penal sum of _____ dollars, to the payment of which we bind ourselves, our heirs, executors and administrators firmly by these presents. In witness whereof we have hereunto set our hands and seals, this _____ day of _____, A. D. 185 .

The condition of the above obligation is such, that if the above bounden A B, school commissioner of the county aforesaid, shall faithfully discharge all the duties of said office according to the laws which now are, or may hereafter be in force, and shall deliver over to his successor in office all moneys, books, papers and property in his hands as such school commissioner, then this obligation to be void; otherwise to remain in full force and virtue.

A—— B——, [SEAL.]
 C—— D——, [SEAL.]
 E—— F——, [SEAL.]

And which bond shall be filed in the office of the county court.

liable to removal

§ 15. The said commissioner shall be liable to removal by the county court for any palpable violation of law, or omission of duty; and if a majority of said court shall at any time be satisfied that his bond is insufficient, it shall be his duty, on notice, to execute a new bond, to be payable, conditioned and approved as the first bond;

the execution of which shall not affect the old bond, or the liability of the security thereon; and when the office of school commissioner shall become vacant by death, resignation or otherwise, the county court or board of supervisors shall fill the same by appointment for the unexpired term, and the person so appointed shall hold his office until his successor shall be qualified.

Office becoming vacant to be filled by appointment.

§ 16. The said commissioner shall provide three well bound books, to be known and designated by the letters A, B, C, for the following purposes: In book A he shall record at length all petitions presented to him for the sale of common school lands, and the plats and certificates of valuation made by or under the direction of the trustees of schools, and the affidavits in relation to the same. In book B he shall keep an account of all sales of common school lands; which account shall contain the date of sale, name of purchaser, description of lands sold, and the sum sold for. In book C he shall keep a regular account of all moneys received for lands sold, or otherwise, and loaned or paid out; the person of whom received, and on what account, and showing whether it is principal or interest; the person to whom loaned, the time for which the loan was made, the rate of interest, the names of the securities when personal security is taken, or if real estate is taken as security, a description of said real estate, and if paid out, to whom, when, and on what account, and the amount paid out; the list of sales, and the accounts of each township fund to be kept separate. Said books shall be paid for out of the county treasury of the counties in which they are used.

To provide books to keep an account of sales of lands and moneys rec'd.

§ 17. Whenever the bond of the township treasurer, approved by the board of trustees of schools, as required by law, shall be delivered by the trustees of schools, or either of them, to the school commissioner, he shall receive and file the same with the papers of his office. He shall then, on demand, deliver to said township treasurer, who shall receipt therefor, all moneys in his hands belonging to said township; also, all bonds, mortgages, notes and securities of every description, for money or property due or to become due the township, and all papers of every description belonging or in anywise pertaining to the rights or interests of said township; and the receipt of said treasurer to the school commissioner shall be carefully preserved, and shall be evidence of the facts therein stated, as well in favor of the school commissioner as against the township treasurer.

Bond of the township treasurer

§ 18. Upon the receipt of the amount due upon the auditor's warrant, as provided in section sixty-nine hereof, the school commissioner shall apportion said amount, (except the amount allowed said commissioner, as provi-

School commissioner to apportion state funds.

ded for in section seventy-five hereof,) to the several townships and fractional townships in his county, according to the number of white children under twenty-one years of age, returned to him, (as provided for in section thirty-eight hereof,) and in which townships or parts of townships schools have been kept in accordance with the provisions of this act, and with the instructions of the state and county superintendents, and shall pay over the distributive share belonging to each township and fractional township, as aforesaid, to the respective township treasurers, or other authorized persons, annually. When there is a county fund in the hands of any school commissioner, it shall be loaned, and the interest applied as provided in this section with respect to the interest on the state fund.

School commissioner to report to superintendent.

§ 19. The school commissioner shall, also, on or before the second Monday of November before each regular session of the general assembly, or annually, if so required to do by the state superintendent, communicate to said state superintendent all such information and statistics upon the subject of schools in the county as the said state superintendent is bound to embody in his report to the governor, (as provided for in section eight hereof,) and such other information as the state superintendent shall require; and the said school commissioner shall also communicate the aforesaid information and statistics to the county convention of his county, at its biennial meetings, and at such other meetings as said convention may require.

To deliver over moneys and property to successor.

§ 20. The school commissioner, upon his removal or resignation, or at the expiration of his term of service, (or in case of his death, his representatives,) shall deliver over to his successor in office, on demand, all moneys, books, papers, and personal property, belonging to the office, or subject to the control or disposition of the school commissioner.

School commissioner to loan funds.

§ 21. The school commissioner may loan any money, not interest, belonging to the county fund, or to any township fund, before the same is called for according to law by the township treasurer, at the same rate of interest, upon the same security and for the same length of time as is provided by this act in relation to the township treasurers; and notes and mortgages taken in the name of the "school commissioner" of the proper county, shall be, and all loans heretofore made in the name of "school commissioners," are hereby, declared to be as valid as if taken in the name of "trustees of schools" of the proper township, and suits may be brought in the name of "school commissioners," on all notes and mortgages heretofore or hereafter made payable to school commissioners.

§ 22. It shall be the duty of the school commissioner to visit, as often as practicable, the several schools of his county, and to note the common method of instruction and branches taught, and give such directions in the art of teaching, and the method thereof, in each school, as to him, together with the directors, shall be deemed expedient and necessary, so that each school shall be equal to the grade for which it was established, and that there may be, as far as practicable, uniformity in the course of studies in the schools of the several grades respectively, and shall carry out the advice and instructions of the state superintendent.

Commissioner to visit schools in his county.

§ 23. In all cases where the township board of trustees of any township shall fail to prepare and forward, or cause to be prepared and forwarded, to the school commissioner, the information and statistics required of them in section thirty-eight (38) of this act, it shall be the duty of said school commissioner to employ a competent person to take the enumeration, and furnish said statistical statement, as far as practicable, to the commissioner; and said person so employed shall have free access to the books and papers of said township, to enable him to make such statement; and the township treasurer, or other officer or person in whose custody such books and papers may be, shall permit said person to examine such books and papers, at such times and places as such person may desire, for the purposes aforesaid; and the said school commissioners shall allow, and pay, to the person so employed by him, for the services, such amount as he may judge reasonable, out of any money which is or may come into said commissioner's hands, apportioned as the share of or belonging to such township; and the said school commissioner shall proceed to recover and collect the amount so allowed or paid for such services, in a civil action before any justice of the peace in the county, or before any court having jurisdiction, in the name of the state of Illinois, of and against the trustees of schools of said township, in their individual capacity; and in such suit or suits the said school commissioner and township treasurer shall be competent witnesses; and the money so recovered, when collected, shall be paid over to the school commissioner, for the benefit of said township, to replace the money taken as aforesaid.

Duty of commissioner in case of failure to make returns.

Compensation.

§ 24. When any real estate shall have been taken for debts due to any school fund, the title to which real estate has become vested in any school commissioner, or trustees of schools, for the use of the inhabitants of two or more townships, the school commissioner may re-sell such real estate for the benefit of said townships, under the provisions of this act regulating the sale of the common school

Comm'r authorized to re-sell real estate.

lands ; and the said commissioner is hereby authorized to execute conveyances to purchasers ; and said commissioner shall be entitled to retain the same per centage on the amount of such sale, out of the assets thereof, as he is entitled to for selling common school lands.

TOWNSHIPS—*Trustees of Schools.*

Townships.	§ 25. Each congressional township, as surveyed and laid off by authority of the United States, is hereby established a township for school purposes. The business of
Trustees elected.	the township shall be done by three trustees, to be elected by the legal voters of the township ; and the said township, upon the election of trustees as aforesaid, as hereinafter provided for, shall be a body corporate and politic,
Name, style, &c.	by the name and style of "trustees of schools, of township —, range —," according to the number. The said corporation shall have perpetual existence, and shall
Powers.	have power to sue and be sued, to plead and be impleaded, in all courts and places where judicial proceedings are
Tenure of trustees	had. Said trustees of schools shall continue in office two years, and until others are elected and enter upon the duties of their office.
Qualifications of trustees.	§ 26. No person shall be eligible to the office of trustee of schools, unless he shall be twenty-one years of age, and a resident of the township.
Election of trustees.	§ 27. The election of trustees of schools shall be on the second Monday of January, biennially, but in townships where such election has not been heretofore had, or where there are no trustees of schools, the election of trustees of schools may be holden on any Monday ; notice being given as hereinafter in this section required. The first election shall be ordered, if in townships already incorporated, by the trustees of schools of the township, the township treasurer giving notice of the time and place, by posting up notices of the same at least ten days previous to the day of election, at or in the school house, or
Notice.	in the most public place in every school district in the township. If there are no trustees of schools in a township, the clerk of the county court shall cause the notice to be given as aforesaid. For all subsequent elections, the like notices shall be given by the trustees of schools, through the township treasurer : <i>Provided</i> , that if, upon any day appointed as aforesaid, for election aforesaid, the said trustees of schools, or judges, shall be of opinion, that, on account of the small attendance of voters, the public good requires it, or if the voters present, or a majority of them, shall desire it, they shall postpone said election until the next Monday, and at the same place and hour ; at which meeting the voters shall proceed as if
County clerk may give notice.	
Proviso.	

it were not a postponed or adjourned meeting; *And provided, also*, that if notice shall not have been given as above required, then, and in that case, said election may be ordered as aforesaid, and holden on the first Monday in February, or any other Monday; notice thereof being given as aforesaid.

§ 28. Two of the trustees of schools of incorporated townships, if present, shall act as judges, and one as clerk of said election. If said trustees shall fail to attend, or refuse to act when present, and in townships unincorporated, the qualified voters present shall choose from amongst themselves three judges and a clerk to open and conduct said election.

Officers of election.

§ 29. The time and manner of opening, conducting, and closing said election, and the several liabilities appertaining to the judges and clerks, and to the voters separately and collectively, and the manner of contesting said elections, shall be the same as prescribed by the general election laws of this state, defining the manner of electing magistrates and constables, so far as applicable, subject to the provisions of this act: *Provided*, the judges may close said election at four o'clock, P. M.

Mode of elections, &c.

§ 30. No person shall vote at said election unless he possesses the qualification of a voter at a general election. In case of a tie at such election, it shall be determined by lot, on the day of election, by the judges thereof.

Voters.

Tie.

§ 31. When a vacancy or vacancies shall occur in the board of trustees of schools, the remaining trustee or trustees shall order an election to fill such vacancy, upon any Monday; notice to be given as required in section twenty-seven hereof.

Vacancy.

§ 32. Upon the election of trustees of schools, the judges of the election shall cause the poll-book of said election to be delivered to the school commissioner of the county, with a certificate thereon, showing the election of said trustees, and names of the persons elected; which poll-book, with the certificate, shall be filed by said commissioner, and shall be evidence of such election.

Poll-book delivered to com'r.

§ 33. The said trustees of schools, elected as aforesaid, shall be successors to the trustees of school lands appointed by the county commissioners' court, and of trustees of schools elected in townships under the provisions of "an act making provisions for organizing and maintaining common schools," approved February 26, 1841, and of "an act to establish and maintain common schools," approved March 1, 1847. All rights of property, and rights and causes of action, existing, or vested in the trustees of school lands, or trustees of schools appointed or elected as aforesaid, for the use of the inhabitants of the township, or any part of them, shall vest in the trustees

Powers of trustees and successors.

of schools as successors, in as full and complete a manner as was vested in the school commissioner, the trustees of school lands, or the trustees of schools appointed and elected as aforesaid.

Duty of the township board of education.

§ 34. It shall be the duty of the township board of trustees to hold regular semi-annual sessions on the first Mondays of April and October in each year, and may meet at such other times and at such other places as they may think proper; and the president of the board, or any two members thereof, may call a special meeting of the board; and at all meetings of the board, three of its members shall constitute a quorum to transact any business. Said board shall organize by appointing one of their number president, and some person who shall not be a director or member of the board township treasurer, who shall be *ex officio* clerk of the board. The said president and township treasurer shall hold their respective offices during the term for which that board of trustees by which they are appointed shall have been elected, and until their successors are appointed, and until their newly appointed treasurer has given bond as required by this act; either of said officers, however, for good cause, may be removed by the board. It shall be the duty of the president, when present, to preside at the meetings of the board; and it shall be the duty of the clerk to be present at all meetings of the board, and to record in a book to be provided for the purpose all their official proceedings, which shall be a public record, open to the inspection of any person interested therein; and all said proceedings, when recorded, shall be signed by the president and clerk. If the president or clerk shall be absent, or refuse to perform any of the duties of his office at any meeting of the board, a president or clerk *pro tempore* may be appointed.

Trustees to prepare a map of their township.

§ 35. Trustees of schools shall prepare or cause to be prepared a map of their township as often as may be necessary, on which shall be designated districts to be styled district No. — in township No. —, which they may alter or change at any regular session; which map shall be certified by the president and clerk of the board, and filed with and recorded by the county clerk, in a book to be kept for that purpose, to be paid for out of the county treasury.

Trustees' duty.

Funds.

§ 36. At each of their half yearly meetings, on the first Monday of April and October, the trustees of schools shall proceed to ascertain the amount of state, county and township funds liable to distribution, to wit: the interest actually on hand from the state and county school fund, and such of the interest, rents, issues and profits arising from the township lands and funds as have accrued and become due since their last regular half yearly meeting, except the

two per cent. and the three per cent., which the school commissioner is allowed to retain. The said trustees shall immediately thereupon proceed to distribute the aggregate amount of state, county and township funds thus ascertained to be liable to distribution, as follows: First, to the township treasurer, the two per cent. allowed him; second, for the payment of the books of the township treasurer, if anything be due for that purpose; third, for the payment of any reasonable charges for dividing common school lands, and making plats, &c., as provided for in this act; fourth, the balance they shall apportion on the several schedules certified and returned from each school in the township according to law, in proportion to the number of days certified on such schedules respectively to have been taught since the last regular return day fixed by the act or trustees for the return of schedules; and the township treasurer shall, as soon as practicable, pay out the money so apportioned to the several persons to whom it shall be distributed. The said trustees of schools shall also make such orders, not contrary to law, for the collection of the funds due as in their discretion shall be most for the interest of the funds. They shall also, at their said half yearly meetings, ascertain the amount of tax money, if any, the treasurer has in hands belonging to any school district being wholly or partly in his township; and they shall see that the treasurer charges himself in his cash book, in a separate column, in favor of the proper district, with the amount they shall find to be in his hands belonging to such district; and the amount so ascertained to be in the hands of the treasurer shall be paid out as in this section directed. The trustees of schools shall also examine the certificate of the district directors to which such tax fund belongs, and they shall thereupon direct the treasurer, by orders upon him, to pay the tax money aforesaid to the several persons who may appear to be entitled to it according to said certificate.

To distribute.

Manner of distribution.

Collection of funds.

Examine certificate.

Duty of boards of education.

§ 37. Whenever it may be desirable to establish a school composed of pupils, residents of two or more districts or two or more townships, it shall be the duty of the respective boards of education of each of such townships to transfer such number of the pupils residing in such townships as the boards may deem proper to the school so established in the township in which the school house is or may be located; but the enumeration of scholars shall be taken in each of such townships as if no such transfer had been made; and such school, when so composed, shall be supported from the school funds of the respective townships in which the pupils composing such school shall reside, and from which they shall have been transferred; and the board of that township in which the school house where such

school is kept is located, shall have the control and management of such school; and the boards of each of such townships so connected for school purposes shall each pay its respective share of the entire expenses of every kind incurred in the establishment and support of such school, to be computed in proportion to the number of pupils residing in each of such townships composing such school; and each board of the townships from which pupils are transferred shall draw an order on its township treasurer, signed by its president, in favor of the township treasurer whose board shall have the control and management of such school, as the case may be, for the amount of its share of the entire expenses aforesaid of such school; and the board of the township having the control and management as aforesaid of such school shall pay out of its treasury the whole amount required for the establishment and maintenance of such schools, in the same manner as provided in this act for the establishment and maintenance of other schools: *Provided, however*, by agreement of the several boards interested therein, said school may be placed under the control and management of such persons as may be determined by a majority of said boards.

Proviso.

Statement to be made of the condition of schools

Number of schools

Number of scholars.

§ 38. The board of trustees of each township in this state shall prepare or cause to be prepared by the township treasurer, the clerk of the board, or other person, and forwarded to the school commissioners of the county in which the township lies, on or before the second Monday of October, preceding each regular session of the general assembly of this state, and at such other times as may be required by the school commissioner, or by the state superintendent of public instruction, a statement, exhibiting the condition of schools in their respective townships for the preceding biennial period, giving separately each year, commencing on the first Mondays of October, and ending on the last of September; which statement shall be as follows:—1st. The whole number of schools which have been taught in each year; what part of said number have been taught by males exclusively, what part have been taught by females exclusively; what part of said whole number have been taught by males and females at the same time; and what part by males and females at different periods. 2d. The whole number of scholars in attendance at all the schools, giving the number of males and females separately. 3d. The number of male and female teachers, giving each separately; the highest, lowest, and average monthly compensation paid to male and female teachers, giving each item separately. 4th. The number of persons under twenty-one years of age. 5th. The amount of the principal of the

township fund; the amount of the interest on the township fund paid into the township treasury; the amount of state or common school fund received by the township treasurer; the amount raised by *ad valorem* tax, and the amount of such tax received into the township treasury; and the amount of all other funds received into the township treasury. 6th. The amount paid for teachers' wages; the amount paid for school house lots; the amount paid for building, repairing, purchasing, renting and furnishing school houses; the amount paid for school apparatus, for books and other incidental expenses for the use of school libraries; the amount paid as compensation to township officers and others. 7th. The whole amount and a full account of the receipts and expenditures for school purposes. 8th. The number of books of each kind used in the schools, and the years in which each book was purchased, together with such other statistics and information in regard to schools as the state superintendent or school commissioner may require.

§ 39. In all cases where a township is, or shall be divided by a county line, or lines, the board of trustees of such township shall make, or cause to be made, separate enumerations of male and female white persons of the ages as directed in the fifth specification of the foregoing section thirty-eight (38) of this act, designating separately the number residing in each of the counties in which such township may lie, and forward each respective number to the proper school commissioner of each of said counties; and in like manner, as far as practicable, all other statistics and information enumerated and required to be reported in the aforesaid section thirty-eight, shall be separately reported to the several school commissioners; and all such parts of said statistical information as are not susceptible of division, and are impracticable to be reported separately, shall be reported to the school commissioner of the county in which the sixteenth section of such township is situated.

Separate enumeration to be made

§ 40. At each semi-annual meeting, and at such other meetings as they may think proper, the said township board shall examine all books, notes, mortgages, securities, papers, moneys and effects of the corporation, and the accounts and vouchers of the township treasurer, or other township school officer, and shall make such order thereon for their security, preservation, collection, correction of errors, if any, and for their proper management, as may seem to said board necessary.

Books and vouchers to be examined.

§ 41. The board of trustees of each township in the state may receive any gift, grant, donation or demise, made for the use of any school or schools, or library, or other school purposes within their jurisdiction; and they

Donations.

shall be and are hereby invested, in their corporate capacity, with the title, care and custody of all school houses, school house sites, school libraries, apparatus or other property belonging to any school district as now organized, or which may be within the limits of their jurisdiction, with full power to control the same in such manner as they may think will promote the interest of schools and the cause of education; and when, in the opinion of the school directors, the school house site has become unnecessary, or unsuitable or inconvenient for a school, said board may sell and convey the same in the name of said board; and such conveyance shall be executed by the president and clerk of said board and the avails shall be paid over to the township treasurer for the benefit of schools; and all conveyances of real estate which may be made to said board shall be made to said board in their corporate name, and to their successors in office; and said board may purchase and hold such real estate and personal property as may be necessary for the establishment and support of schools.

Money to be paid
to township treasurer.

§ 42. The township board shall cause all moneys for the use of the township to be paid over to the township treasurer. They shall have power, also, to remove the township treasurer at any time, for any failure or refusal to execute or comply with any order or requisitions of said board, legally made, or any other improper conduct in the discharge of his duty as treasurer, or at any time they may deem such removal expedient. They shall also have power, for any failure or refusal as aforesaid, to sue him upon his bond, as provided in section fifty-nine hereof.

Trustees to purchase real estate

§ 43. The township trustees are hereby vested with general power and authority to purchase real estate, if in their opinion the interests of the township fund will be promoted thereby, in satisfaction of any judgment or decree wherein the said board or school commissioner are plaintiffs, or complainants; and the title of such real estate so purchased shall vest in said board, for the use of the inhabitants of said township, for school purposes; and all purchases of land heretofore made by school commissioners, or trustees of school lands, or trustees of schools, for the use of any fund or township for the use of schools, are hereby declared valid. The said board are hereby vested with general power and authority to make all settlements with persons indebted to them in their official capacity; or receive deeds of real estate in compromise; and to cancel, in such manner as they may think proper, notes, bonds, mortgages, judgments and decrees, existing, or that may hereafter exist, for the benefit of the township, when the interest of said township, or the fund concerned, shall, in their opinion, require it,

it, and their action shall be valid. Said board of education are hereby authorized to lease or sell, at public auction, any land that may come into their possession, in such manner and on such terms as they shall deem for the interest of the township: *Provided*, that in all cases of sale of land, as provided in this section, the sale shall be made at the same place, and notice given of it in the same manner, as is provided in this act for the sale of the sixteenth section.

SCHOOL DIRECTORS—THEIR ELECTION AND DUTIES.

§ 44. It shall be the duty of the legal voters within each school district to meet at the school house, or other convenient place in the district, on the first Monday of October next, or as soon thereafter as the township may be laid off into districts, and on the first Monday of October biennially thereafter, and elect three persons within the district, to be styled school directors, who shall continue in office for the term of two years, and until their successors are elected. But the first election may be held on any Monday, notice being given by the township treasurer, according to the provisions of this act. The legal voters, when assembled, shall choose three of their number to act as judges, and one as clerk, at such election. In case of a tie of said election for school directors, it shall be determined by lot on the day of the election, by the judges thereof.

§ 45. A majority of said directors shall constitute a quorum to do business; and the board, when convened, shall have power to purchase libraries for the district, to be paid for out of the tax funds of the district: They shall establish a sufficient number of common schools for the education of every individual person over the age of five and under twenty-one years, in their respective districts; and shall make the necessary provision for continuing such schools in operation for at least six months in each year, and longer if practicable. They shall cause suitable lots of ground to be procured and suitable buildings to be erected, purchased or rented for school houses, shall supply the same with furniture and fuel, and make all other provisions relative to schools which they may deem proper. They shall exercise a general supervision over the schools of their respective districts, and shall, by one or more of their number, visit every school in the district at least once a month, and shall cause the result of such visit to be entered on the records of the board. They shall have the appointment of all the teachers of the schools in the district, shall fix the amount of

teachers' salaries or compensation, and may dismiss them at any time for incompetency, cruelty, negligence or immorality; shall direct what branches of learning shall be taught in each school, and may suspend or expel from the school all pupils found guilty, on full examination and hearing, of refractory or incorrigibly bad conduct. Said school directors are hereby authorised to receive and hold, by their name of school directors, for the use of schools in the district, any book purchased for or donated to the district library; and the same shall be kept and controlled and loaned to the inhabitants of the district, under twenty-one years of age, according to rules prescribed by said directors. But the librarian shall in no case receive any compensation out of the common school or township fund for his services as librarian.

OF JUDGMENTS AND EXECUTIONS AGAINST BOARDS OF TRUSTEES OR SCHOOL DIRECTORS.

Judgment and
execution against
trustees.

§ 46. If judgment shall be obtained against any township board of trustees or school directors, the party entitled to the benefit of such judgment may have execution therefor, as follows, to wit: it shall be lawful for the court in which such judgment shall be obtained, or to which such judgment shall be removed, by transcript or appeal from a justice of the peace, or other court, to issue thence a writ, commanding the directors, trustees and treasurer of such township to cause the amount thereof, with interest and costs, to be paid to the party entitled to the benefit of said judgment, out of any moneys, unappropriated, of said township; or if there be no such moneys, out of the first moneys applicable to the payment of the kind of services or indebtedness for which such judgment shall be obtained, as provided in section sixty-five of this act, which shall be received for the use of such township; and to enforce obedience to such writ by attachment, or by mandamus requiring such board to levy a tax for the payment of said judgment; and all legal process, as well as writs to enforce payments of a judgment, shall be served either on the president or clerk of the board.

EXAMINATION AND QUALIFICATION OF TEACHERS:

Examination and
qualification of
teachers.

§ 47. The school commissioner shall, either by himself, or by any person or persons, whom he shall appoint, examine such person or persons proposing to teach a common school

in the county, in relation to his or her qualification to teach orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, and the history of the United States; and if he or they shall be satisfied that such person sustains a good moral character, and is qualified properly to teach all the aforesaid branches, he or they shall give such person a certificate of qualification; which certificate shall be good and valid in said county for two years from the date thereof, and said certificate may be renewed, at its expiration, by indorsement thereon by the said commissioner, or examiners. The said certificate to the teacher may be in the following form, viz:

——— *Illinois*, ——— 18——

The undersigned having examined ———, and being satisfied that ——— sustains a good moral character, hereby certify that ——— is qualified properly to teach the following branches, viz: orthography, reading in English, penmanship, arithmetic, English grammar, modern geography, and the history of the United States; which certificate is good and valid in said county for two years from the date hereof, renewable at the option of the school commissioner or of any two members of the board of examiners, by his or their indorsement thereon.

Form of certificate.

Given under ——— hand, at the date aforesaid.

A—— B——, *School Commissioner*.

C—— D——, }
E—— F——, } *Examiners*.

Provided, that each and every school, or schools, of whatever grade, established or authorized to be established under the provisions of this act, shall be a school or schools for the purpose of teaching various branches of an English education; and no part of the common school fund, township fund, or of any other school fund, shall be paid out or appropriated for the establishing, conducting, or the supporting in any manner of any other character or class of school or schools, as aforesaid designated: *Provided*, that nothing herein contained shall prevent the teaching a foreign language in a common school as aforesaid.

Proviso.

§ 48. It shall be the duty of the school commissioner to fix upon the time of holding meetings for the examination of teachers, in such places in their respective counties, as will in their opinion best accommodate the greatest number of candidates for examination; notice of all such meetings having been published in some newspaper of general circulation; and all teachers who do not attend at the appointed time for said examination, shall pay to the school commissioner, one dollar for their certificate.

Meetings for examination of teachers.

Publication of notice.

TEACHERS—THEIR DUTIES.

Exhibit certifi-
cate.

§ 49. No teacher shall be entitled to any portion of the common school or township fund, or other public fund, or be employed to teach any school under the control of any board of education of any township in this state, who shall not, before his employment, exhibit to said board, or to a committee of said board, a certificate of qualification obtained under the provisions of this act; nor shall any teacher be paid any portion of the school or public fund aforesaid, unless he shall have kept and furnished schedules as herein directed.

Schedules.

§ 50. Teachers shall make schedules of the names of all scholars under twenty-one years of age, attending their schools, in the form prescribed by this act; and when scholars reside in two or more districts, townships, or counties, separate schedules shall be kept for each district, township, or county; and the absence or presence of every scholar shall be set down under the proper date, and opposite the name, on every day that the school is open; and the absence of a scholar shall be signified by a blank—the presence by a mark. The schedule to be made and returned by the teacher shall be, as near as circumstances will permit, in the following form, viz :

Form of sched-
ule.

SCHEDULE of a Common School, kept by A. B., at ———, in district number ———, in township sixteen north, range five, east of the third principal meridian, in the county of ———, in the state of Illinois.

Names of scholars attending my school, and residing in district number ———, in township ——— north, range ——— west, in ——— county.	1855.														Total number of days of each scholar.
	Monday, January 15	Tuesday, " 16	Wednesday, " 17	Thursday, " 18	Friday, " 19	Monday, " 21	Tuesday, " 22	Wednesday, " 23	Thursday, " 24	Friday, " 25	Monday, " 27	Tuesday, " 28	Wednesday, " 29	Thursday, " 30	
John Smith,.....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	16
Isaac Meslier,.....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	14
Sarah Danforth,.....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	17
Mary Newman,.....	1	1	1	1	1	1	1	1	1	1	1	1	1	1	12
Grand total number of days,.....	59														59

And said teacher shall add up and set down the whole number of days' attendance of each scholar, and add up said whole numbers, and make out the grand total number of days' attendance, as in the form above prescribed, and

shall attach thereto his certificate, which shall be in the following form, viz :

I certify that the foregoing schedule of scholars attending my school, as therein named, and residing as specified in said schedule, to the best of my knowledge and belief, is correct; and that it was a school for the purpose of teaching various branches of an English education.

A B, *Teacher.*

Teachers shall also include in said schedule, or furnish a separate report, containing the name of each scholar, and the name of each book used by each scholar, and the year in which each book was purchased : *Provided*, said schedule shall not include any book reported in a former schedule. When the teacher shall have completed his or her schedule or schedules, as above required, he or she shall deliver it to some one of the directors or to a committee of at least two members of said board appointed for the purpose ; and it shall be the duty of said director, in connection with some other director of the board, or of said committee, to carefully examine such schedule or schedules, and after correcting all errors, and if they shall find such schedule to have been kept according to law, they shall certify to the same, as near as practicable, in the following form, viz :

State of Illinois, }
 — county } ss.

Form of certificate.

We, the undersigned, directors of the board of education in township number —, range number —, in the county aforesaid, certify that we have examined the foregoing schedule, and find the same to be correct, and that the school was conducted according to law. That there is now due said C D, teacher, as per contract, the sum of — dollars and — cents, and that the said teacher has a legal certificate of good moral character and of qualification to teach a common school, (or of such a grade as the case may be.)

Witness our hands, this — day of —, A. D. 185—.

A B, }
 C D, } *Directors of the Board of Education.*

Which schedule or schedules, certified as aforesaid, by at least two directors of the board of education, shall be filed by said directors with the township treasurer; and until such schedule and report, as aforesaid, shall have been filed as aforesaid, it shall not be lawful for said treasurer to pay said teacher, or for the board of education, or any

Schedule to be filed.

two members thereof, to draw an order in favor of said teacher, as provided in section seventy hereof.

Directors limited
as to date of
schedule.

§ 51. School directors shall certify no schedule that reaches back to a time more than six months from the time fixed by law for the regular return and presentation of schedules to the school directors. Schedules made and certified as aforesaid shall, at least two days before the first Saturday of April and October, be delivered by the directors to the township treasurer.

TOWNSHIP TREASURER—HIS DUTIES.

Treasurer to give
bond.

§ 52. The township treasurer appointed by the board of trustees, as provided in section thirty-four of this act, shall, before entering upon his duties, execute a bond, with two or more freeholders, who shall not be members of the board of education, as securities, payable to the board of the township for which he is appointed treasurer, with a sufficient penalty to cover all liabilities which may be incurred, conditioned faithfully to perform all the duties of township treasurer, in township —, range —, in — county, according to law. The security shall be approved by at least a majority of the board of education, and shall be delivered by one of the directors to the school commissioner of the proper county. And in all cases where such treasurer aforesaid is to have the custody of all bonds, notes, mortgages, moneys and effects denominated principal, and belonging to the township for which he is appointed treasurer, the penalty of said treasurer's bond shall be twice the amount of said bonds, notes, mortgages, moneys and effects. And every township treasurer appointed subsequent to the first, as herein provided, shall execute bond, with security, as is required of the first treasurer.

§ 53. The bond required in the foregoing section shall be in the following form, viz :

Term of bond.

State of Illinois, } ss.
——— county,

Know all men by these presents, that we, A B, C D and E F, are held and firmly bound, jointly and severally, unto the board of —, in said county, in the penal sum of — dollars, for the payment of which we bind ourselves, our heirs, executors and administrators firmly by these presents. In witness whereof, we have hereunto set our hands and seals this — day of —, A. D. 18—.

The condition of the above obligation is such, that if the above bounden A B, township treasurer of township —, range —, in the county aforesaid, shall faithfully dis-

charge all the duties of said office according to the laws which now are or may hereafter be in force, and shall deliver to his successor in office all moneys, books, papers, securities and property in his hands as such township treasurer, then this obligation to be void, otherwise to remain in full force and virtue.

A — B —, [SEAL.]
C — D —, [SEAL.]
E — F —, [SEAL.]

Approved and accepted by G H, }
I J, } *Directors of the Board*
K L, } *of Education.*

§ 54. Every township treasurer shall provide himself with two well bound books, the one to be called a cash book, the other a loan book. He shall charge himself in the cash book with all moneys received, stating the charge, when, from whom and on what account received; and credit himself with all moneys paid or loaned, the amount loaned, the date of the loan, the rate of interest, the time when payable, the name of the securities, or if real estate be taken, a description of the same. He shall also enter in separate accounts moneys received and moneys paid out, charging the first to debit account, and crediting the latter as follows, to wit: 1st. The principal of the township fund, when paid in, and when paid out. 2d. The interest of the township fund, when received, and when paid out. 3d. The common school fund and other funds, when received from the school commissioner, and when paid out. 4th. The taxes received from the county collector, distinguishing between that for general school purposes and that levied for the purpose of prolonging schools, as provided in section seventy-five of this act. 5th. Donations received. 6th. Moneys coming from all other sources; and in all cases entering the date when received and when paid out; and he shall also arrange and keep his books and accounts in such other manner as may be directed by the state or county superintendent, or the board of trustees. He shall also provide a book, to be called a journal, in which he shall record fully and at length the acts and proceedings of the board, their orders, by-laws and resolutions; which book shall be at all times subject to the inspection of said board, or other persons authorized by this act, or of any committee appointed by the inhabitants of the township to examine the same. And he shall also provide a book to be called a record, in which he shall enter a brief description of all notes or bonds belonging to the township, and upon the opposite page he shall note down when paid, or any re-

Township treasurer to provide books and keep account of money received.

marks to show where or in what condition it is, as in the following form, viz :

Form.

Makers' names.	Date of note.	When due.	Amount.	Remarks.
A B, C D, E F.	January 1, 1859.	January 1, 1845.	\$ 50 00	January 6, '48, handed to I J, esq., for collection (or January 6, '47, paid.)

Township to loan
funds.

§ 55. The township treasurer shall loan, upon the following conditions, all moneys which shall come to their hands by virtue of their office, except such as may be subject to distribution according to section — hereof. The rate of interest shall be ten per centum per annum, payable half yearly in advance. The time for which loans shall be made shall not be less than six months, nor more than five years. For all sums not exceeding one hundred dollars, loaned for not more than one year, two responsible securities shall be given; for all sums over one hundred dollars, and for all loans for more than one year, security shall be given by mortgage on real estate, unencumbered, in value double the amount loaned, with a condition that in case additional security shall at any time be required, the same shall be given to the satisfaction of the board of trustees for the time being. Notes, bonds, mortgages and other securities taken for money or other property, due or to become due to the board of trustees for the township, shall be payable to the said board by their corporate name; and in such name suits, actions and complaints, and every description of legal proceedings, may be had for the recovery of money, the breach of contracts, and for every legal liability which may at any time arise or exist, or upon which a right of action shall accrue to the use of this corporation: *Provided, however,* that notes bonds, mortgages and other securities in which the name of the school commissioner, or of the trustees of schools, are inserted, shall be valid to all intents and purposes; and suit shall be brought in the name of the board of trustees as aforesaid. The wife of the mortgagor (if he has one) shall join in the mortgage given to secure the payment of money loaned by virtue of the provisions of this act.

Proviso.

§ 56. Mortgages to secure the payment of money loaned under the provisions of this act, may be in the following form, viz :

Form of mort-
gage.

I, A B, of the county of —, and state of —, do hereby grant, convey and transfer to the board of trustees of township —, range —, in the county of —, and state of Illinois, for the use of the inhabitants of said

township, the following described real estate, to wit: (Here insert the premises.) Which real estate I declare to be in mortgage for the payment of \$—— loaned to me, and for the payment of all interest that may accrue thereon, to be computed at the rate of —— per cent. per annum until paid. And I hereby covenant to pay the said sum of money in —— years from the date hereof, and to pay interest on the same at the rate aforesaid, half yearly in advance. I further covenant that I have a good and valid title to said estate, and that the same is free from all incumbrance; and that I will pay all taxes and assessments which may be levied on said estate; and that I will give any additional security that may at any time be required by said board of education; and if said estate be sold to pay said debt, or any part thereof, or for any failure or refusal to comply with or perform the conditions or covenants herein contained, I will deliver immediate possession of the premises. And in consideration of the premises, C, wife of said A B, doth hereby release to the said board all her right and title of dower in the aforegranted premises, for the purposes aforesaid.

In testimony whereof we have hereunto set our hands and seals, this —— day of ——, 18—.

A—— B——. [SEAL.]
C—— D——. [SEAL.]

Which mortgage shall be acknowledged and recorded as is required by law for other conveyances of real estate, the mortgagor paying the expenses of acknowledgment and recording, and fifty cents as a fee to the township treasurer.

Mortgage to be recorded.

§ 57. Upon the breach of any condition or stipulation contained in said mortgage, an action may be maintained and damages recovered as upon other covenants; but mortgages made in any other form to secure payment as aforesaid shall be valid as if no form had been prescribed. In estimating the value of real estate mortgaged to secure the payment of money loaned under the provisions of this law, the value of improvements liable to be destroyed shall not be included.

§ 58. In all cases where the board of trustees shall require additional security for the payment of money loaned, and such security shall not be given, the township treasurer shall cause suit to be instituted for the recovery of the same, and all interest thereon, to the date of judgment: *Provided*, that proof be made of the said requisition. In the payment of debts by executors and administrators, those due the common school or township fund shall have a preference over all other debts, except funeral and other expenses attending the last sickness, not in-

Additional security.

Proviso.

cluding the physician's bill. And it shall be the duty of the township treasurer to attend at the office of the probate justice upon the proper day, as other creditors, and have any debts due as aforesaid probated and classed, to be paid as aforesaid.

Default in payment of interest

§ 59. If default be made in the payment of interest due upon money loaned [by] any school commissioner or township treasurer, or in the payment of the principal, interest at the rate of twelve per cent. per annum shall be charged upon the principal and interest from the day of default, which shall be included in the assessment of damages, or in the judgment in suit or action brought upon the obligation to enforce payment thereof; and interest as aforesaid may be recovered in action brought to recover interest only. And the said township treasurers are hereby empowered to bring appropriate actions, in the name of the board of trustees, for the recovery of the half yearly interest, when due and unpaid, without suing for the principal, in whatever form secured, and justices of the peace shall have jurisdiction in such cases of all sums under one hundred dollars.

Bring suits.

All suits and actions to be brought in the name of the board.

§ 60. All suits brought, or actions instituted under the provisions of this act, may be brought in the name of the "board trustees, of township —, range —," except as is provided for action *qui tam* in this act, or in favor of school commissioners. The township treasurer shall demand, receive and safely keep, according to law, all moneys, books and papers of every description belonging to his township. He shall keep the township fund loaned at interest; and if on the first Monday of April in any year there shall be any interest or other funds on hand which shall not be required for distribution, such amount not required as aforesaid shall forever be considered as principal in the funds to which it belongs, and loaned as such.

Statement to be made in April and October.

§ 61. On the first Mondays of April and October, of every year, the township treasurer shall lay before the board of trustees a statement, showing the amount of interests, rents, issues and profits that have accrued or become due since their last regular half yearly meeting, on the township lands and township funds, and also the amount of state and county fund interest on hand. He shall also lay before the said trustees all books, notes, bonds, mortgages, and all other evidence of indebtedness belonging to the township, for the examination of the trustees, and shall make such other statement as the board may require touching the duties of his office.

Penalty.

§ 62. For any failure or refusal to perform all the duties required of township treasurer by law, he shall be liable to the board of trustees upon his bond, to be recover-

ed by action of debt by said board, in their corporate name, for the use of the proper township, before any court having jurisdiction of the amount of damages claimed; but if said treasurer, in any such failure or refusal, acted under and in conformity to a requisition or order of said board, or a majority of them, entered upon their journal and subscribed by their president and clerk, then and in that case the members of said board aforesaid, or those of them voting for said requisition or order as aforesaid, and not the treasurer, shall be liable, jointly and severally, to the inhabitants of the township, to be recovered by action of assumpsit, in the official name of the school commissioner, for the use of the proper township.

§ 63. When a township treasurer shall resign, or be removed, and at the expiration of his term of office, he shall pay over to his successor in office all money on hand, and deliver over all books, notes, bonds, mortgages, and all other securities for money, and all papers and documents of every description, in which the corporation may have any interest whatever, and in case of the death of the township treasurer, his securities and legal representatives shall be bound to comply with the requisitions of this section. And for any failure to comply with the requisitions of this section, he shall be liable to a penalty of not less than ten, nor more than one hundred dollars, at the discretion of the court before which judgment may be obtained; and the obtaining or payment of said judgment shall in nowise discharge or diminish the obligation of his official bond.

Bonds, mortgages
&c., to be de-
livered to suc-
cessor.

TOWNSHIP AND COUNTY SCHOOL FUNDS.

§ 64. All bonds, notes, mortgages, and other evidence of indebtedness, moneys and effects, in the hands of any school commissioner, trustee of schools, township treasurer, or other officer, or person, and belonging to any county or township, and which have heretofore accrued, or may hereafter accrue from the sale of the sixteenth [section,] or of the common school lands of any township or county, or for the sale of any real estate or other property taken for any debt, or on any judgment, due to the principal of any county or township fund, and all surplus interest and other funds which have been, or shall hereafter be, carried to and made part of the principal of any township or county funds, by any law which has heretofore been, or may hereafter be enacted, in the hand of any county, township, or other officer, or person, and belonging to any county or township, and all sums arising from the loaning or re-loaning of the principal of any

School fund to be
added to principal
in certain
cases.

township or county fund, are hereby declared to be, and shall forever hereafter constitute the principal of the township or county fund, to whichever it may respectively belong, and no part thereof shall ever be distributed or expended for any purpose whatever, except the interest, rents and profits thereof, but shall be loaned out, and held to use, rent or profit, as herein, heretofore, or may hereafter be, provided by law.

Money to be applied to the payment of teachers

§ 65. So much of the school moneys coming into the hands of the township treasurer, which has been, or may be derived from the state tax, state fund, or common school fund of the state, or from any township tax funds levied for the purpose of continuing the terms of schools, after the state funds have been exhausted, as provided in section seventy (70) hereof, shall be applied only to the payment of teachers, in the respective townships to which such fund belongs, and shall be drawn from the treasury for no other purpose whatever; and all other school funds, paid into the township treasury, arising from taxation, or from other sources, and the interest of the township fund, not otherwise specifically directed to be applied by this act, shall be applied and expended, under the direction and at the discretion of the board of directors of the district to which such funds belong, in procuring school house sites, and improving the same, in building, repairing, and furnishing school houses, in the payment of compensation to township treasurers, and other school purposes, as such board are authorised to make under the provisions of this act: *Provided, however,* that nothing herein shall be so construed as to prevent the application of said school funds to the payment of teachers, when necessary, in the opinion of said board, so to apply them, or any part thereof.

Money how paid out.

§ 66. All moneys and school funds, liable to distribution, not being principal, paid into the township treasury, or coming into the hands of the township treasurer, shall be paid out only on the order of the proper board, signed by their president and clerk; and for all payments made, receipts shall be taken and filed; and in all such orders shall be stated the purpose for which or on what account drawn; and all such orders may be in the following form, to wit:

Form of order.

The treasurer of township number ———, range number ———, in ——— county, will pay to ——— or bearer, ——— dollars and ——— cents, (on his contract for repairing Sulphur Spring school house, or otherwise, as the the case may be.) By order of the board of ——— said township.

A B, *President.*

C D, *Clerk.*

Which, together with the receipt of the person to whom paid, shall be filed in the office of the township treasurer: *Provided, however,* the township treasurer may pay to any teacher his wages, on such teacher presenting a certificate of the amount due him, and an order for the same, by any two members of the board of directors, and on said teacher filing with said treasurer a true copy of his certificate of qualification, certified by the said two members to be such as is required by law; which certificate and order as aforesaid shall be appended to the aforesaid true copy of said teacher's qualification; which certificate and order may be in the following form, viz:

We the undersigned directors, of — in township — range number —, in the county of —, hereby certify the foregoing to be a true copy of A B, teacher's certificate of qualification, and is such as is required by law, to qualify (him or her) to teach in the school which (he or she) has taught, and we further certify that the amount due said A B is — dollars and — cents; which amount the treasurer of said township is hereby required to pay.

Given under our hands — this — day of —, 18—.

A B, {
C D, } *Directors.*

To E. D, *Township Treasurer*, T.— R.—.

Which, on payment being made, the treasurer shall file in his office, together with said teachers's receipt for the amount paid. But no order shall be drawn, or paid, in favor of any teacher, until his or her schedule shall have been completed and filed, as provided in section fifty of this act, nor until he or she shall have complied with all his or her duties as prescribed by law.

COMMON SCHOOL FUNDS.

§ 67. The common school fund of this state shall consist of such sum as will be produced by the annual levy and assessment of two mills upon each dollar's valuation of all the taxable property in the state, and there is hereby levied and assessed annually, in addition to the revenue for state purposes, the said two mills upon each dollar's valuation of all the taxable property in the state, to be collected and paid into the state treasury as other revenue is collected and paid; and the amount due from the state, according to a statement and settlement of the account between the state and that fund, under the provisions of an act entitled an "An act to provide for the distribution and application of the interest on the school, college and seminary fund," approved on the seventh of

Provide.

February, one thousand eight hundred and thirty-five, and of all funds which have been or may be received by the state from the United States, for the use and support of common schools, and also of the money added to the common school fund which was received from the United States under an act of congress providing for a distribution of the surplus revenue of the United States, and which was invested in bank stock, by authority of the state, and of the amount added to the school fund under an act requiring the three per cent. fund to be invested in state bonds: *Provided*, that in cases where, heretofore, the state taxes have not been collected in any county, such county shall not be entitled to a distribution of the college, seminary and school fund, for the period of time that no such taxes have been collected, and that the portion of the fund aforesaid shall in such cases be distributed without regard to such county.

State to pay interest.

§ 68. The state shall pay an interest of six per cent. per annum upon the amount of the aforesaid common school funds, except on so much thereof as may be realised from the levy of the tax directed to be levied under the provisions of this act, which shall be paid annually, and applied to the support of common schools, as herein provided. The state shall also pay, as aforesaid, and at the same time, an interest of six per centum per annum upon the amount due the college and seminary fund; which interest shall be loaned to the common school fund, and known in this law and applied in all cases as interest on the common school fund as aforesaid.

Duty of auditor.

§ 69. On the first Monday in January, in each and every year, next after taking the census of the state, the auditor of public accounts shall, under the supervision of the commissioners of the school fund of the state, ascertain the number of white children in each county in the state, under twenty-one years of age, and shall thereupon make a dividend to each county of two-thirds the sum from the tax levied and collected under the provisions of the sixty-seventh section of this act; and the interest due on the school, college and seminary fund, in proportion to the number of white children in each county under the age aforesaid, and of the remaining one-third, in proportion to the number of townships and parts of townships in each county, and issue his warrant to the school commissioner of each county upon the collector thereof. And upon presentation of said warrant by the school commissioner to the collector of his county, said collector shall pay over to the school commissioner the amount of said warrant out of the first specie funds which may be collected by him, and not otherwise appropriated by law, taking said commissioner's receipt therefor; and on settlement with the auditor, said

collector shall be credited with the amount specified in said receipt, in the same manner as if it had been paid into the treasury. Dividends shall be made as aforesaid, according to the proportions ascertained to be due to each county annually thereafter, until another census shall have been taken, and then dividends shall be made and continued as aforesaid, according to the last census: *Provided*, that if any collector shall fail or refuse to pay, in gold or silver, the amount of the aforesaid warrant, or any part thereof, by the first day of March, annually, or so soon thereafter as it may be presented, it shall be competent for the school commissioner to proceed against said collector and his securities, in an action of debt, in the county court; which court is hereby vested with full power and authority to hear and determine all such suits, render judgment and issue execution, or said suit may be brought in any court having jurisdiction; and the said collector shall pay twelve per centum, to be assessed as damages upon the amount due, and which shall be included in the judgment obtained against him.

ADDITIONAL TAXES IN TOWNSHIPS FOR SCHOOLS.

§ 70. At each meeting in October, or at any subsequent meeting thereafter, before the first day of May, annually, each township board of trustees in this state shall determine, by estimate, as nearly as practicable, the entire amount of money necessary to be expended in the township to keep in good condition and operation a sufficient number of free schools for the accommodation of all the children in said township during the ensuing year, over and above the available means arising from the township fund, or from other sources, and applicable to general school purposes, and also such additional amount as the board may think necessary for the exclusive purpose of supplying any deficiency in the fund for the payment of teachers, and for the purpose of extending the terms of schools after the state or common school fund shall have been exhausted; and shall determine, as nearly as practicable, what rate per cent. on the one hundred dollars' valuation of all the taxable property in the township, each of said amounts separately, will require to be levied; each of which rates so estimated and required to be levied, together with a list of the names of all the resident tax payers of the township, the said board shall make known by certificate in writing, signed by the president and clerk of the board, to the clerk of the county court of the county, on or before the first Monday of July next thereafter in each year; which certificate may be in the following form, viz :

Additional taxes
may be levied.

Form of certificate.

We, the undersigned, president and clerk of the board of trustees of township No. —, range No. —, in the county of —, and state of Illinois, do hereby certify that said board have estimated and required to be levied for the year 18—, the rate of —, for general school purposes, and the rate of —, for paying teachers and extending terms of schools, on each one hundred dollars' valuation of taxable property in said township. Given under our hands, this — day of —, 18—.

A— B—, *President.*

C— D—, *Clerk.*

Authorized to levy tax for building and furnishing school houses.

§ 71. For the purpose of erecting school houses, or purchasing school house sites, or for the repairing and improving the same, for procuring furniture, fuel and district libraries, the board of directors of any district shall be authorized to have levied and collected a tax annually on all the property in their district, by furnishing a certificate similar to the one required by the provisions of this section, from trustees of schools.

Duty of county clerk.

§ 72. According to the rate or rates certified as aforesaid, the said county clerk, when making out the tax books for the collector, shall compute each taxable person's tax in said township, or that part of the township in the county, or in any district, taking as a basis the total amount of taxable property returned by the county assessor for that year, lying and being in said township, part of township or district, whether belonging to residents or non-residents, and also each and every tract of land assessed by the assessor, which lies, or the largest part of which lies, in said township or part of township or district. The said county clerk shall cause each person's tax so computed to be set upon the tax book, to be delivered to the county collector for that year, in a separate column, against each tax payer's name, or parcel of taxable property, as it appears in said collector's books, to be collected in the same manner, and at the same time, as state and county taxes are collected. The computation of each person's tax, and the levy made by the clerk, as aforesaid, shall be final and conclusive: *Provided*, the rate shall be uniform, and shall not exceed the rate certified by the township board of trustees or directors and the said county clerk, before delivering the tax books to the collector, shall make out and deliver, on demand, to each township treasurer, or other authorized person, of the respective townships, or part of townships, in the county, a certificate of the amount due his township, of said tax so levied and placed upon the tax books; and on or before the first day of April next after the delivery of the tax books containing the computation and levy of said taxes aforesaid, or so soon thereafter as the township

Provided.

treasurer, or other authorized person, shall present the said certificate of the amount of said tax, and make a demand therefor, the said county collector shall pay to said township treasurer, or other authorised person, the full amount of said tax, so certified by the county clerk, retaining from said amount only two per centum, as his fee for collection, taking of the township treasurer, or other authorized person, his receipt therefor; which receipt shall be evidence, as well in favor of the collector as against the township treasurer, or other authorised person for him; and said treasurer, or other authorised person for him, shall enter the same in separate accounts, in his cash book, distinguishing between that part of said account for general school purposes, and that for paying teachers and extending the terms of schools, and pay the same out as provided for by this act.

§ 73. If any collector shall fail to pay the amount of said tax, or any part thereof, as required in the aforesaid section, it shall be competent for the township treasurer, or other authorized person, to proceed against such collector and his securities in an action of debt in the county court; which court is hereby vested with full power and authority to hear and determine all such suits, render judgments and issue execution; or said suit may be brought in any other court having jurisdiction; and the said collector, so in default, shall pay twelve per centum upon the amount due, to be assessed as damages, which shall be included in the judgment rendered against him: *Provided*, no collector shall be liable for such part of said tax as he shall be able to make appear he could not have collected by law, until he may be able to so collect such amount.

§ 74. When a township is or shall hereafter be situated in two or more counties, the certificate, of the rate of taxation, required in the sixty-ninth (69) [section] of this act, shall be returned to the clerks of the county court of each of such counties, furnishing to each clerk the names of the resident tax payers of that part of such township which lies in his county, and each of said clerks shall proceed in all respects, as regards the taxable residents and taxable property of that part of such township situated in his county, as required by the seventy-second section of this act, and for the purpose of enabling the trustees of townships, or school directors to make the estimate of taxes required as provided in section seventy-two, the county clerk of each county shall furnish to the clerk of each of said boards, the total amount of valuation of the taxable property of each township, part of township, or district respectively, as returned by the assessor of the previous year; and to enable the clerk of the county court to perform this duty for the first estimates of the boards, as

Certificate to be returned to clerk of county court.

Power to borrow
money.

Proviso.

aforsaid, the clerks of said boards, respectively, shall furnish to said county clerk a list of all the names of the resident tax payers of the previous year in said township or part of township or district, in the county, and thereafter said list of names shall be furnished as provided in section seventy of this act. For the purpose of erecting school houses, or purchasing school house sites, or for repairing and improving the same, it shall be lawful for the board of directors of any district to borrow money at a rate of interest not exceeding ten per cent. per annum, and issue bonds therefor in sums not less than one hundred dollars; which bonds shall be executed by the president and clerk of said board: *Provided*, that the total indebtedness incurred by any district under this section, shall not at any time exceed one per centum of the assessed value of the real and personal property of said district.

COMPENSATION OF OFFICERS.

Compensation of
school commis-
sioner.

§ 75. School commissioners shall be allowed to retain, out of the township funds of the township for which the services may be rendered, three per cent. upon the amount of sales of school lands, and upon the real estate taken for debt, for their services in making such sales, including such other services connected therewith as are required by the provisions of this act, and two per cent. they may retain upon the amount of all sums distributed, paid or loaned out by them for the support of schools; and for visiting schools, they shall be allowed to retain two dollars per day, for any number of days not exceeding fifty during any year, which account shall be certified and sworn to by the commissioner of each county.

Township treasur-
ers.

Proviso.

§ 76. Township treasurers shall be allowed to retain two per cent. upon all sums paid out, or loaned by them: *Provided, however*, the boards of trustees may reduce said compensation; and said boards shall, and it is hereby made their duty, to make a reasonable allowance to said treasurers for their services performed as clerks of said boards, to be paid out of the township funds. School commissioners, trustees of schools, school directors, and all other school officers, shall be exempted from working on the roads, serving on juries and military duty.

LIABILITIES OF OFFICERS.

Liabilities of offi-
cers.

§ 77. If any school commissioner, trustee of schools, township treasurer, director, or any other person entrusted with the care, control, management, or disposition of any school, college, seminary, or township fund, for the use of any county, township, district, or school, shall

convert any such funds, or any portion thereof, to his own use, he shall be liable to indictment, and upon conviction, shall be fined in not less than double the amount of money converted, and imprisoned in the county jail not less than one or more than twelve months, at the discretion of the court.

§ 78. Trustees of schools shall be liable, jointly and severally, for the sufficiency of securities taken from township treasurers; and in case of judgment against said treasurers and their securities, for or on account of any default of any such treasurer, on which the money shall not be made for want of sufficient property whereon to levy execution, actions on the case may be maintained against said trustees, jointly or severally, and the amount not collected on said judgment shall be recovered with costs: *Provided*, that if said trustees can show, satisfactorily, that the security taken from the treasurer as aforesaid was at the time of said taking good and sufficient, they shall not be liable as aforesaid.

§ 79. The real estate of school commissioners, of township treasurers, and all other school officers, and of the securities of each of them, shall be bound for the satisfaction and payment of all claims and demands against said commissioners and treasurers, and other officers, as such, from the date of issuing process against them, in actions or suits brought to recover such claims or demands, until satisfaction thereof be obtained; and no sale or alienation of real estate by any commissioner, treasurer or other officer, or security aforesaid, shall defeat the lien created by this section, but all and singular such real estate held, owned, or claimed as aforesaid, shall be liable to be sold in satisfaction of any judgment which may be obtained in such actions or suits.

Lien upon real estate from date of process.

§ 80. Trustees of schools, school directors or either of them, failing or refusing to make returns of children in their township, or district, according to the provisions of this act, or if either of them shall knowingly make a false return, the party so offending shall be liable to a penalty of not less than ten dollars nor more than one hundred dollars, to be recovered by action of assumpsit, before any justice of the peace of the county, which penalty, when collected, shall be added to the township fund; and if any school commissioner, director or trustee, or either of them, or other officer whose duty it is, shall negligently or wilfully fail or refuse to make, furnish, or communicate the statistics and information, or shall fail to discharge the duties enjoined upon them, or either of them, at the time and in the manner required by the provisions of sections nineteen and thirty-eight of this act, such delinquent or party offending shall be liable to a fine of

Failure to make return.

twenty-five dollars, to be recovered before any justice of the peace, on information in the name of the people of the state of Illinois, and when collected shall be paid to the school commissioner of the proper county for the use of schools.

School commis-
sioner respon-
sible in certain
cases.

§ 81. School commissioners, trustees of schools, directors and township treasurers, or either of them, and any other officer having charge of school funds or property, shall be responsible for all losses sustained by any county, township, or school fund, by reason of any failure on his or their part to perform the duties required of him or them by this act, or by any rule or regulation authorised to be made by this act; and each and every of the officers aforesaid shall be liable for any such loss sustained as aforesaid, and the amount thereof may be recovered, in a civil action, before any court having jurisdiction thereof, at the suit of the state of Illinois, for the use of the county, township, or fund injured; and the amount, when collected, shall be paid to the proper officer, for the benefit of said county, township, or fund injured.

COST, TENURE OF OFFICES AND CONTRACTS UNDER FORMER LAWS.

No cost to be
charged in cer-
tain cases.

§ 82. No justice of the peace, probate justice, constable, clerk of any court, or sheriff, shall charge any costs, in any suit where any agent of any school fund, suing for the recovery of the same, or any interest due thereon, is plaintiff, and shall be, from any cause, unsuccessful in such suit. School commissioners appointed heretofore shall continue in office until superseded according to the provisions of this act, and their duties, responsibilities, and powers shall be governed by the provisions herein named. Trustees of school lands heretofore appointed, and trustees of schools heretofore elected, shall, also, continue to discharge the duties of their office until trustees of schools are elected under the provisions of this act. Townships heretofore incorporated shall, without any further action or proceeding, be considered as incorporated under the provisions of this act, and the trustees and other officers shall continue to discharge their duties till suspended by appointment or election under this law; and all school directors and officers heretofore appointed, shall continue in office until superseded by the election as provided in this act, and shall be governed by the provisions of the laws heretofore in force, unless otherwise directed by this act. Leases of school lands shall remain valid and be executed according to the laws under which they were made. Common school lands valued and offered for sale and remaining unsold shall be sold upon terms prescribed

Tenure of office.

Leases remain
valid.

by this act. All taxes levied and contracts made under the laws hereby repealed shall remain valid, and all rights, remedies, defences, and causes of action existing, or which may hereafter exist or arise, under or by virtue of said repealed laws, shall continue and remain valid, and shall be enforced, notwithstanding the repeal of said laws, unless canceled according to the provisions of this act.

OF CITIES AND INCORPORATED TOWNS.

§ 83. This act shall not be so construed as to repeal or change, in any respect, any special acts in relation to schools, in cities or incorporated towns, except that it shall be the duty of the several boards of education, or other officers, of any city or incorporated town, having in charge schools under the provisions of any of the said special acts, or of any ordinance of any city or incorporated town, on or before the second Monday of October, preceding each regular session of the general assembly of this state, or annually, if required so to do by the state superintendent, to make out and render a statement of all such statistics and other information in regard to schools, and the enumeration of children, or white persons, as are required to be communicated by township boards of trustees or directors, under the provisions of the thirty-eighth (38) section of this act, or so much thereof as may be applicable to said city or incorporated town, to the school commissioner of the county where such city or incorporated town is situated, or of the county in which the larger part of such city or town is situated; nor shall it be lawful for the county school commissioner, or any other officer or person, to pay over any portion of the common school fund, to any local treasurer, school agent, clerk, board of education, or other officer, or person, of any township, city, or incorporated town, unless a report of the number of children, or white persons, and other statistics relative to schools, and a statement of such other information, as are required of the boards of trustees or directors as aforesaid, and of other school officers and teachers under the provisions of this act, shall have been filed, at the time or times aforesaid, specified in this section, with the school commissioner of the proper county, as aforesaid.

Of cities and in-
corporated towns

SCHOOLS OF PERSONS OF COLOR.

§ 84. In townships in which there shall be persons of color, the board of education shall allow such persons a portion of the school fund, equal to the amount of taxes collected for school purposes from such persons of color in their respective townships.

Schools of persons
of color.

COMMON SCHOOL LANDS.

Common school
lands.

§ 85. Section number sixteen in every township granted to the state by the United States for the use of schools, and such sections and parts of sections as have been or may be granted as aforesaid, in lieu of all or part of section number sixteen, and also the lands which have been or may be selected and granted as aforesaid, for the use of schools, to the inhabitants of fractional townships in which there is no section number sixteen, or where such section shall not contain the proper proportion for the use of schools in such fractional township, shall be held as common school lands; and the provisions of this act referring to common school lands shall be deemed to apply to the lands aforesaid.

Trespasser.

Penalties.

§ 86. All the business of such townships, so far as relates to common school lands, shall be transacted in that county which contains all or a greater portion of said lands. If any person shall, without being duly authorised, cut, fell, box, bore, destroy or carry away any tree, sapling or log standing or being upon any school lands, such person shall forfeit and pay for every tree, sapling or log so felled, boxed, bored, destroyed or carried away, the sum of eight dollars; which penalty shall be recovered, with costs of suit, by an action of debt or assumpsit, before any justice of the peace having jurisdiction of the amount claimed, or in the county or circuit court, either in the corporate name of the board of trustees of the township to which the land belongs, or by action of *qui tam*, in the name of any person who will first sue for the same—one half for the use of the person suing, the other half to the use of the township aforesaid. When two or more persons shall be concerned in the same trespass, they shall be jointly and severally liable for the penalty herein imposed. Every trespasser upon common school lands shall be liable to indictment, and upon conviction, fined in three times the amount of the injury occasioned by said trespass, and shall stand committed as in other cases of misdemeanor. All penalties and fines collected under the provisions of this section shall be paid to the township treasurer, and be added to the principal of the township fund; and all other fines, penalties and forfeitures imposed or incurred in any of the circuit courts of this state, or collected by justices of the peace or other county officers, except fines collected in incorporated towns or cities, for the violation of the by-laws or ordinances of said towns or cities, shall be paid to the school commissioner of the county where such fines, penalties and forfeitures have been collected, and the same shall be distributed by said commissioner in the same manner as the common school funds of the state are distributed; and if any county officer or justice of the peace afore-

said shall fail or refuse to pay as aforesaid, after collection, such officer or justice of the peace so failing or refusing to pay as aforesaid shall forfeit and pay double the amount of such fine, penalty or forfeiture as aforesaid, collected by him, to be recovered before any court having jurisdiction, in a civil action, at the suit of the school commissioner.

SALE OF COMMON SCHOOL LANDS.

§ 87. When the inhabitants of any township or fractional township shall desire the sale of the common school land of the township or fractional township, they shall present a petition to the school commissioner of the county in which the school lands of the township, or the greater part thereof, lie, for the sale thereof; which petition shall be signed by at least two thirds of the white male inhabitants of the township or fractional township of and over twenty-one years of age. The signing of the petition must be in the presence of two citizens of the township, after the true meaning thereof shall have been explained; and when signed an affidavit shall be affixed thereto, by the two citizens, proving the signing in the manner aforesaid, and stating the number of white male inhabitants in the township or fractional township, of and over twenty-one years of age; and said petition, so proved, shall be delivered to the school commissioner for his action thereon: *Provided*, that no whole section shall be sold in any township containing less than fifty inhabitants; and common school lands in fractional townships may be sold when the number of inhabitants and number of acres are in the ratio of fifty to six hundred and forty, but not before.

§ 88. When the petition and affidavits are delivered to the school commissioner as aforesaid, he shall notify the trustees of said township thereof, and said trustees shall immediately proceed to divide the land into tracts or lots of such form and quantity as will produce the largest amount of money; and after making such division, a correct plat of the same shall be made, representing all divisions, with each lot numbered and defined, so that its boundaries may be forever ascertained. Said trustees shall then fix a value on each lot, having regard to the terms of sale, certify to the correctness of the plat, stating the value of each lot per acre, or per lot, if less than one acre, and referring to and describing the lot in the certificate, so as fully and clearly to distinguish and identify each lot; which plats and certificate shall be delivered to the school commissioner, and shall govern him in advertising and selling said lands.

§ 89. In subdividing common school lands for sale, no lot shall contain more than eighty acres, and the division

Sale of school lands.

Provided.

Trustees to divide land into lots.

Subdivision of lots.

may be made into town or village lots, with roads, streets or alleys between them and through the same; and all such divisions, with all similar divisions hereafter made, are hereby declared legal; and all such roads, streets and alleys, public highways.

Terms of selling.

§ 90. The terms of selling common school lands shall be to the highest bidder, for cash, with the privilege to each purchaser of borrowing from the school commissioner the amount of his bid, for any period not less than one nor more than five years, upon his paying interest and giving security, as in case of money loaned by township treasurer, as provided in this act.

Place of selling.

§ 91. The place of selling common school lands shall be at the court house of the county in which the lands are situated; or the trustees of schools may direct the sale to be made on the premises; and upon the reception by the school commissioner of the plat and certificate of valuation from the trustees, he shall proceed to advertise the said land for sale, in lots as divided and laid off by said trustees, by posting notices thereof in at least six public places in the county, forty days next anterior to the day of sale, describing the land, and stating the time, terms and place of sale; and if any newspaper is published in said county, said advertisement shall be printed therein for four weeks before the day of sale—if none, then it shall be sold under the notice aforesaid.

Notice.

School commissioner to make sales.

§ 92. Upon the day appointed, the school commissioner shall proceed to make sales, as follows, viz: he shall begin at the lowest number of lots, and proceed regularly to the highest, till all are sold or offered. No lot shall be sold for less than its valuation by the trustees. Sales shall be made between the hours of ten o'clock A. M., and six o'clock P. M., and may continue from day to day. The lots shall be cried separately, and each lot cried long enough to enable any one present to bid who desires it.

Payment to be secured.

§ 93. Upon closing the sales each day, the purchasers shall each pay, or secure the payment of the purchase money, according to the terms of sale; or in case of his failure to do so by ten o'clock the succeeding day, the lot purchased shall be again offered at public sale, on the same terms as before, and if the valuation or more shall be bid, shall be stricken off; but if the valuation be not bid, the lot shall be set down as not sold. If the sale is or is not made, the former purchaser shall be required to pay the difference between his bid and the valuation of the lot; and in case of his failing to make such payment, the school commissioner may forthwith institute an action of debt or assumpsit, in his name, as commissioner, for the use of the inhabitants of the township where the land lies, for the required sum; and upon making proof, shall be entitled to

judgment, with costs of suit; which, when collected, shall be added to the principal of the township fund. And if the amount claimed does not exceed one hundred dollars, the suit may be instituted before a justice of the peace; but if more than that sum, then in the circuit court of any county wherein the party may be found.

§ 94. All lands not sold at public sale, as herein provided for, shall be subject to sale at any time thereafter, at the valuation; and school commissioners are authorised and required, when in their power, to sell all such lands at private sale, upon the terms at which they are offered at public sale.

Unsold lands subject to sale at valuation.

§ 95. In all cases where common school lands have been heretofore valued, and have remained unsold for two years after having been offered for sale, or shall hereafter remain unsold that length of time, after being valued and offered for sale in conformity to this act, the trustees of schools where such lands are situated may vacate the valuation thereof, by an order to be entered on book A, of the school commissioner, and cause a new valuation to be made, if in their opinion the interests of the township will be promoted thereby. They shall make said second valuation in the same manner as the first was made, and shall deliver to the school commissioner a plat of such second valuation, with the order of vacation to be entered as aforesaid; whereupon said school commissioner shall proceed in selling said lands in all respects as if no former valuation had been made: *Provided*, that the second valuation may be made by the trustees of schools, without petition, as provided in this act.

Trustees to cause a new valuation.

Provided.

§ 96. Upon the completion of every sale by the purchaser, the school commissioner shall enter the same on book B, and shall deliver to the purchaser a certificate of purchase, stating therein the name and residence of the purchaser, describing the land and the price paid therefor; which certificate shall be evidence of the facts therein stated.

Certificate of purchase.

§ 97. At the first regular term of the county court in each year, the school commissioner shall present to the court of his county—first, a statement showing the sales of school lands made subsequent to the first regular term of the previous year, which shall be a true copy of the sale book, (book B;) second, statements of the amount of money received, paid, loaned out, and on hand, belonging to each township or fund under his control—the statement of each fund to be separate; third, statements copied from his loan book, (book C,) showing all the facts in regard to loans which are required to be stated upon the loan book; all of which the county court shall thereupon examine and compare with the vouchers, and the said county court, or so

Statement of school commissioner to county court.

many of them as may be present at the term of the court, shall be liable individually to the fund injured, and to the securities of said school commissioner, in case judgment be recovered of said securities, for all damages occasioned by a neglect of the duties, or any of them, required of them by this section: *Provided*, nothing herein contained shall be construed to exempt the securities of said school commissioner from any liability as such securities, but they shall still be liable to the fund injured the same as if the county commissioners were not liable.

Provided.

Transcript to be
furnished the
auditor.

§ 98. The school commissioner shall also, at the time aforesaid, transmit to the auditor of public accounts a full and exact transcript from book B of all the sales made subsequent to each report. The statement in section ninety-seven (97) hereof, required to be presented to the county court, shall be preserved and copied by the clerk of said into a court well bound book, kept for that purpose, and the list transmitted to the auditor shall be filed, copied and preserved in like manner.

Purchaser to re-
ceive patent.

§ 99. Every purchaser of common school land shall be entitled to a patent from the state, conveying and assuring the title. Patents shall be made out by the auditor from returns made to him by the school commissioner. They shall contain a description of the land granted; and shall be in the name of and signed by the governor, countersigned by the auditor, with the great seal of the state affixed thereto by the secretary of state, and shall operate to vest in the purchaser a perfect title in fee simple. When patents are executed as herein required, the auditor shall note on the list of sales the date of each patent, in such manner as to perpetuate the evidence of its date and delivery, and thereupon transmit the same to the school commissioner of the proper county, to be by him delivered to the patentee, his heirs or assigns, upon the return of the original certificate of purchase; which certificate, when returned, shall be filed and preserved by the school commissioner.

Duplicate copies.

§ 100. Purchasers of common school lands, and their heirs and assigns, may obtain duplicate copies of their certificates of purchase, and of patents, upon filing affidavit with the school commissioner in respect to certificates, and with the auditor in respect to patents, proving the loss or destruction of the originals; and such copies shall have all the force and effect of the originals.

ACTS REPEALED—PUBLICATION AND DISTRIBUTION OF THE ACT.

Acts repealed.

§ 101. An act entitled "An act to establish and maintain common schools," approved February 12th, 1849, and an act to amend said act, approved February 12th, 1851,

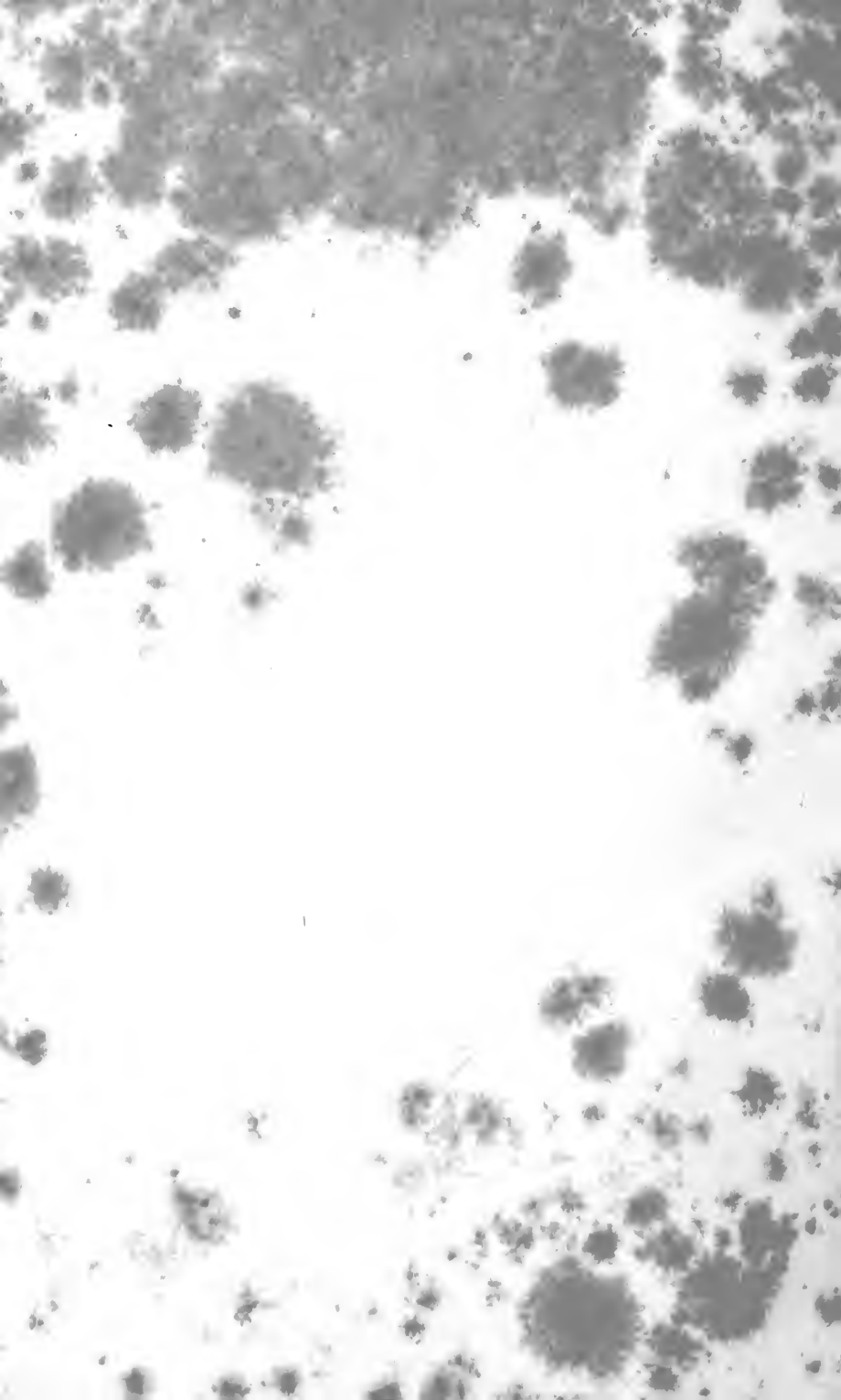
and an act entitled "An act to increase the school fund," approved February 10th, 1853, and all other acts and parts of acts coming in conflict with the provisions of this act, are hereby repealed. This act to be in force from and after its passage.

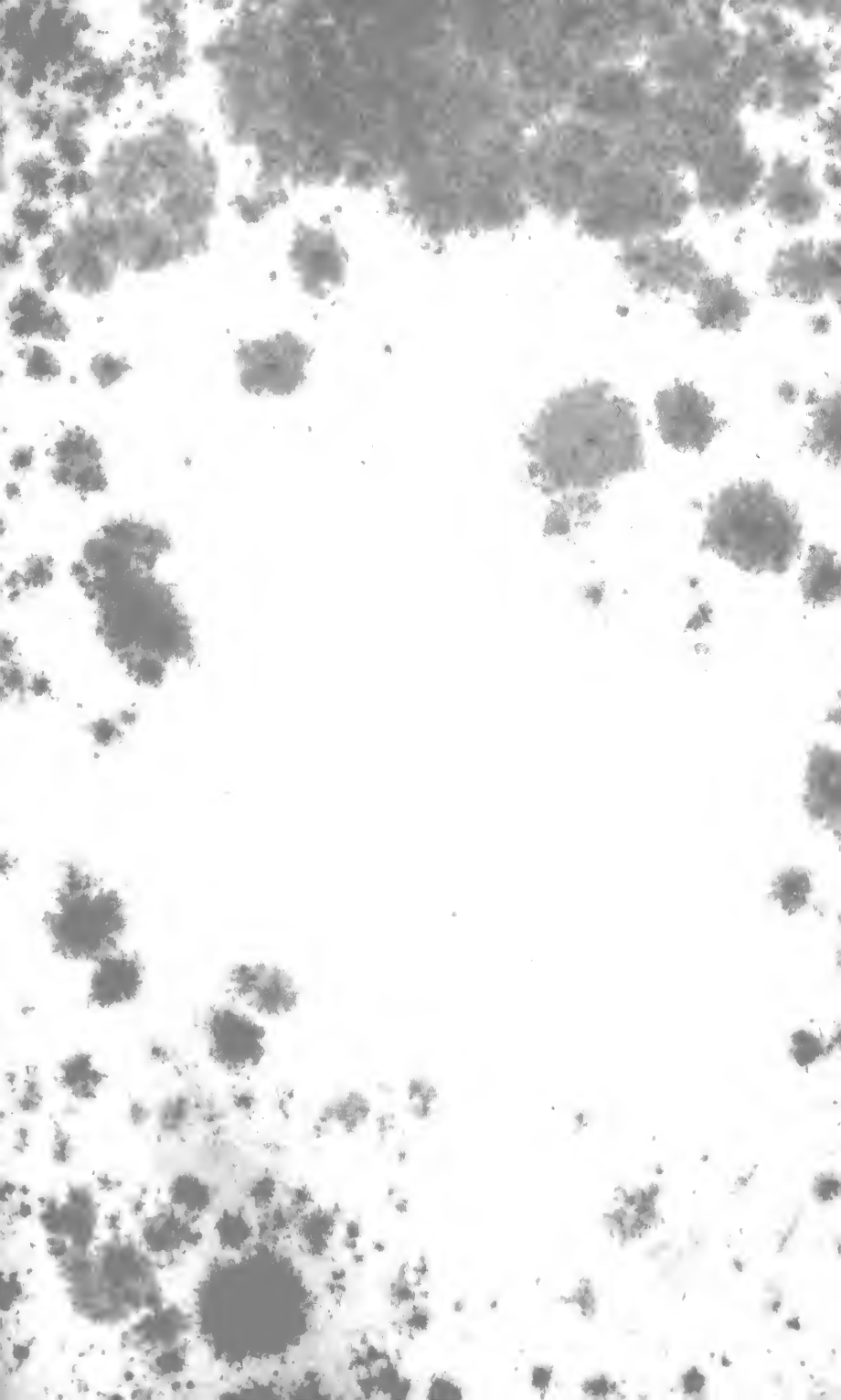
§ 102. The public printer is hereby required to print thirty thousand copies of this act, under the direction of the secretary of state, who shall first make a perfect index hereto, to be distributed by him according to population among the several counties of the state, and deposited with school commissioners, to be distributed by them to the directors of the boards of education and township treasurers, for the use of the different officers under this law.

Number of copies
to be printed and
distributed.

APPROVED Feb. 15, 1855.







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